Appl. No.: 09/977,896
Amdt. dated 10/19/2005
Reply to Office action of 04/19/2005

REMARKS

This response is submitted with a request for a three month extension and appropriate fee in reply to the outstanding Office Action dated April 19, 2005. Claims 1-9 currently stand rejected. Applicants have amended independent claims 1 and 7 to more particularly distinguish the claimed invention from the cited references and have added new claims 10 and 11. Claims 2, 3, 8 and 9 have been amended to correct informalities. No new matter has been added by the amendment.

In light of the amendment and the remarks presented below, Applicants respectfully request reconsideration and allowance of all now-pending claims of the present application.

Claim Objections

Claims 2, 3, 8 and 9 were objected to for containing informalities. Applicants have amended claims 2, 3, 8 and 9 to correct these informalities. Specifically, the term "distribution" has been corrected to --redistribution--.

Accordingly, Applicants respectfully request the objections to claims 2, 3, 8 and 9 be withdrawn.

Claim Rejections - 35 USC §103

Claims 1-3 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Crill et al. (U.S. Patent No. 6,445,822, hereinafter, Crill) in view of Gutberlet, L., "Peer-to-Peer Computing – A Technology Fad or Fact?", 10/10/2000 (hereinafter, "Gutberlet"). Claims 4-6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Crill in view of Gutberlet, further in view of Schneier, B., "Applied Cryptography", 1996 (hereinafter, "Schneier"). Claim 7 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Crill in view of Cooperman et al. (U.S. Patent No. 5,613,004, hereinafter "Cooperman"). Claims 8 and 9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Crill in view of Cooperman further in view of Gutberlet.

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Applicant has amended independent claims 1 and 7 to recite, *inter alia*, collecting an illegally produced digital music file according to a kind of music of the digital music file. In other words, for example, digital music files are collected according to their kind of music.

Crill is directed to searching for and comparing digital content on a network using reference images with which to compare candidate images (abstract and throughout specification). As such, Crill discloses that a search for pirated music files may be conducted (col. 2, lines 53-56). Crill discloses that a search may be conducted by, for example, downloading an HTML file and searching for all graphic files for comparison (col. 8, lines 16-21). Such a method would allow a user to search for all music files in a given web site, but not all music files of a particular kind of music. Alternatively, Crill discloses that a search may be conducted by employing such programs as "spiders" or "robots" or "wanderers" to roam a network in search of candidate images similar to a reference image (col. 8, lines 28-33). Such a method, if employed with respect to music files would only allow a particular song to be searched for, rather than a kind of music, since the reference image would be a particular song as explained in more detail below.

It should be noted that search terms may be employed to create a reference image, such as, for example, ducks (col. 7, lines 8-12). Thus one may argue that candidate images would be of a particular kind of image relating to ducks. However, Crill teaches that searches for graphics, text, music, etc. are all conducted in a visual context. Accordingly, a music file would be mapped into a visual image for optical correlation (col. 14, lines 21-24). Although it might be argued that a search for candidates to compare to a reference image of a duck will result candidate images fitting the general "kind" of duck images, the same argument will not hold true with respect to music files. Instead, when converted for optical correlation, a particular music file will only be optically correlated with a similar music file (i.e. same beat, same words, same base line, etc.). It is not possible to optically correlate music of the same kind of music in an optical manner. Thus, Crill fails to teach or suggest collecting an illegally produced digital music file according to a kind of music of the digital music file as recited in independent claims 1 and 7.

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Gutberlet discloses digital rights management (DRM) in which content files may be encrypted in order to require a "license" prior to execution of the content files. Gutberlet fails to teach or suggest collecting an illegally produced digital music file according to a kind of music of the digital music file as recited in independent claims 1 and 7. Neither is Gutberlet cited as teaching such feature.

Schneier is directed to methods of public key encryption and Cooperman is directed to methods of watermark encryption. Both Schneier and Cooperman fail to teach or suggest collecting an illegally produced digital music file according to a kind of music of the digital music file as recited in independent claims 1 and 7. Furthermore, neither Schneier nor Cooperman are cited as disclosing such feature.

Since Crill, Gutberlet, Schneier and Cooperman each fail to teach or suggest the aforementioned features of independent claims 1 and 7, any combination of Crill, Gutberlet, Schneier and Cooperman also fails to teach or suggest the subject matter of independent claims 1 and 7. Thus, Crill, Gutberlet, Schneier and Cooperman, taken either individually or in combination, do not anticipate, or render independent claims 1 and 7 obvious. Claims 2-6, 8 and 9 depend either directly or indirectly from a respective one of independent claims 1 and 7, and as such, include all the recitations of their respective independent claims. The dependent claims 2-6, 8 and 9 are therefore patentably distinct from the cited references, individually or in combination, for at least the same reasons as given above for independent claims 1 and 7.

Accordingly, Applicants respectfully submit that the rejections of claims 1-9 are overcome.

Newly Added Claims

Applicant has added new claims 10 and 11 to more particularly define aspects of the present invention. The new claims include no new matter and are fully supported by the specification and the drawings of the present application.

Accordingly, it is believed that the new claims are in condition for allowance.

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CONCLUSION

In view of the amended claims and the remarks submitted above, it is respectfully submitted that the present claims are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present invention.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.
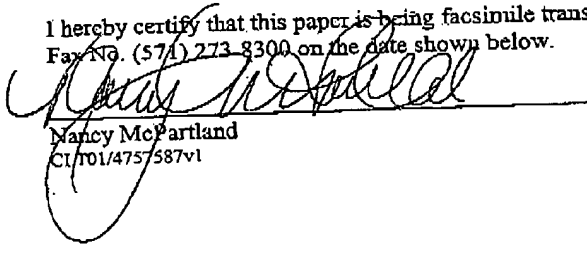
Respectfully submitted,

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Nancy McPartland
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